446.001

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	:	K. Katcheves
LALANNE et al	:	
Serial No.: 09/786,880	:	Group: 1636
Filed: June 1, 2001	:	
For: ESSENTIAL GENES...SAID GENES	:	

475 Park Avenue South
New York, N.Y. 10016
November 5 2003

RESPONSE

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Responsive to the office action of August 26, 2003, reconsideration of this application is requested in view of the remarks presented herein.

The claims in the application are claims 1 to 43.

The Patent Office has objected to the sequence listing as being improper and Applicants are submitting herewith a diskette and a substitute paper copy of the sequence listing which are the same and where applicable, include no new matter as required by 37 CFR 1.821(e) or 1.821(f) or 1.821(g) or 1.825(b) or 1.825(d). As noted by the Patent Office, the specification and figures were complete with sequences that did not recite corresponding sequence identifiers and this has been corrected in the present submission. In view of this, Applicants are submitting a substitute specification and a marked up copy

of the original specification for the Patent Office's convenience. Therefore, it is believed that Applicants have clearly complied all of the requirements for the sequence listing.

The Examiner went on to require a five-way restriction requirement as set forth. Group I was claims 1 to 8 and 29 to 32 drawn to a polynucleotide, Group II was claims 9 to 15 drawn to proteins, Group III was claims 16 to 21 drawn to plasmids, Group IV was claims 22 to 28 drawn to antibodies and Group V was claims 33 to 43 drawn to a method for screening antimicotic substances.

Applicants respectfully traverse the Examiner's restriction requirement since it is believed that there is but a single general invention included in the present application. The Examiner's attention is directed to Section 1893.03(d) of the MPEP wherein it is stated "A group of inventions is considered linked to form a single general inventive concept where there is a technical relationship among the inventions that involved at lest one common or corresponding special technical feature. The expression "special technical feature" is defined as meaning those technical features that define the contribution which each claims invention, considered as a whole makes over the prior art." The MPEP further states "Further, claims directed to the selected sequences will be examined with claims drawn to any sequence combinations which have a common technical feature with the selected sequences. Nucleotide sequences encoding the same protein are considered to satisfy the unity of invention standard and will continue to be examined together."

In view of these statements within the MPEP, it is deemed that there is but a single invention involved and withdrawal of the restriction requirement is requested. In order to be fully responsive to the office action, Applicants elect the invention of group I with traverse for the election of species corresponding to the gene CaNL256

Respectfully submitted,
Muserlian, Lucas and Mercanti

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CAM:ds
Enclosures

Notice to Comply	Application No. 09/	Applicant(s) Hwang et al.
	Examiner Konstantina Katcheves	Art Unit 1636

NOTICE TO COMPLY WITH REQUIREMENTS FOR PATENT APPLICATIONS CONTAINING NUCLEOTIDE SEQUENCE AND/OR AMINO ACID SEQUENCE DISCLOSURES

Applicant must file the items indicated below within the time period set the Office action to which the Notice is attached to avoid abandonment under 35 U.S.C. § 133 (extensions of time may be obtained under the provisions of 37 CFR 1.136(a)).

The nucleotide and/or amino acid sequence disclosure contained in this application does not comply with the requirements for such a disclosure as set forth in 37 C.F.R. 1.821 - 1.825 for the following reason(s):

☐ 1. This application clearly fails to comply with the requirements of 37 C.F.R. 1.821-1.825. Applicant's attention is directed to the final rulemaking notice published at 55 FR 18230 (May 1, 1990), and 1114 OG 29 (May 15, 1990). If the effective filing date is on or after July 1, 1998, see the final rulemaking notice published at 63 FR 29620 (June 1, 1998) and 1211 OG 82 (June 23, 1998).

☐ 2. This application does not contain, as a separate part of the disclosure on paper copy, a "Sequence Listing" as required by 37 C.F.R. 1.821(c).

☐ 3. A copy of the "Sequence Listing" in computer readable form has not been submitted as required by 37 C.F.R. 1.821(e).

☐ 4. A copy of the "Sequence Listing" in computer readable form has been submitted. However, the content of the computer readable form does not comply with the requirements of 37 C.F.R. 1.822 and/or 1.823, as indicated on the attached copy of the marked -up "Raw Sequence Listing."

☐ 5. The computer readable form that has been filed with this application has been found to be damaged and/or unreadable as indicated on the attached CRF Diskette Problem Report. A Substitute computer readable form must be submitted as required by 37 C.F.R. 1.825(d).

☐ 6. The paper copy of the "Sequence Listing" is not the same as the computer readable from of the "Sequence Listing" as required by 37 C.F.R. 1.821(e).

☒ 7. Other: The specification and figures are replete with sequences that do not recite corresponding sequence identifiers.

Applicant Must Provide:

☐ An initial or substitute computer readable form (CRF) copy of the "Sequence Listing".

☐ An initial or substitute paper copy of the "Sequence Listing", as well as an amendment directing its entry into the specification.

☒ A statement that the content of the paper and computer readable copies are the same and, where applicable, include no new matter, as required by 37 C.F.R. 1.821(e) or 1.821(f) or 1.821(g) or 1.825(b) or 1.825(d).

For questions regarding compliance to these requirements, please contact:

For Rules Interpretation, call (703) 308-4216
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